

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

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| In the matter of: |) | No. D 02 - 149 |
| |) | |
| NATIONAL UNION FIRE INSURANCE |) | CONSENT ORDER |
| COMPANY OF PITTSBURGH, |) | |
| |) | |
| An Authorized Insurer. |) | |
| _____ |) | |

FINDINGS OF FACT:

1. National Union Fire Insurance Company of Pittsburgh ("National Union") holds a certificate of authority which was duly and properly issued by the Washington State Insurance Commissioner. "National Union" is therefore governed by the provisions of Title 48 RCW, the Insurance Code. Specifically, "National Union" is authorized as a casualty insurer, among other lines of insurance.
2. In 1993, the Washington State Legislature enacted Chapter 48.87 RCW, "Midwives and Birthing Centers - Joint Underwriting Association." RCW 48.87.030 provided that the Insurance Commissioner was required to approve, by December 31, 1993, "a reasonable plan for the establishment of a nonprofit, joint underwriting association (JUA) . . . for midwifery and birth center insurance subject to the conditions and limitations contained in this chapter." RCW 48.87.040 provided that "The (JUA) association shall be comprised of all insurers possessing a certificate of authority to write and engaged in the writing medical malpractice insurance within this state, and general casualty companies. Every insurer shall be a member of the (JUA) association and shall remain a member as a condition of its authority to continue to transact business in this state." RCW 48.87. 100 authorized the Insurance Commissioner to adopt "all rules necessary to ensure the efficient, equitable operation of the association."
3. Pursuant to RCW 48.87.100, the Insurance Commissioner adopted rules, which are to be found at Chapter 284-87 of the Washington Administrative Code (WAC), establishing a Joint Underwriting Association (JUA) for Midwifery and Birthing Centers Malpractice Insurance. WAC 284-87-050, "Administration" set up a governing board for the JUA. WAC 284-87-050, "Assessments", provides at (1) that "The board may calculate, levy and collect assessments from member insurers whenever necessary for the orderly operation of the (JUA). "WAC 284-87-070(4)

provides that "Assessments are due thirty days after mailing. Any member insurer failing to remit its assessment when due is subject to revocation of its certificate of authority."

4. On June 22, 2000, the JUA sent "National Union" a Notice of Assessment, requiring that "National Union" send payment of a \$48,495.47 assessment. The Notice also said that "Assessments are due 30 days after mailing of the notice" and that "As provided in WAC 284-87-070(4), any insurer failing to remit its assessment is subject to revocation of its certificate of authority."
5. Since "National Union" had not paid its \$48,495.47 assessment by August 24, 2000, the JUA sent a reminder letter to "National Union" pointing out that payment was overdue. The reminder letter again pointed out that "...any insurer failing to remit its assessment when due is subject to revocation of its certificate of authority." From August 24, 2000, to the present, "National Union" has not paid its \$48,495.47 assessment for the year 2000.

CONCLUSION OF LAW:

1. By failing to remit its year 2000 assessment of \$48,495.47, National Union Insurance Company of Pittsburgh violated WAC 284-87-070(4) and is subject to the revocation of its certificate of authority.

CONSENT TO ORDER:

1. National Union Insurance Company of Pittsburgh hereby admits and stipulates to the foregoing Findings of Fact and Conclusions of Law. In addition, National Union Insurance Company of Pittsburgh acknowledges its duty to comply with all applicable statutes and regulations of Washington State.
2. The Commissioner has offered a settlement of this matter, in lieu of suspending or revoking "National Union's" certificate of authority in Washington State. "National Union" wishes to accept this offer of settlement, in lieu of further proceedings in this matter.
3. By agreement of the parties, the Commissioner will impose a fine of \$10,000. If the fine is not paid in full not later than thirty days after the date this order is entered, or if the insurer has not paid its year 2000 assessment to the Midwife/JUA within that same length of time, the Insurance Commissioner will revoke the certificate of authority held by the insurer in the state of Washington.

SIGNED AND AGREED, this 1st day of October, 2002.

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH

By:

Typed Name: Kenneth V. Harkins

Typed Corporate Title: Senior Vice President

ORDER:

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of \$10,000, in lieu of revocation of the certificate of authority which National Union Fire Insurance Company of Pittsburgh holds in the state of Washington. If the fine is not paid in full not later than thirty days after this order is entered, or if the insurer has not paid its year 2000 Assessment to the Midwife/JUA within the same length of time, then the Insurance Commissioner will revoke that certificate of authority.

ENTERED AT TUMWATER, WASHINGTON, this 7th day of October, 2002.

MIKE KREIDLER Insurance Commissioner

By:

WILLIAM KIRBY
Legal Affairs Division